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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re:	)	Chapter 13
	)	
LEV BAKSHIYEV,	)	Case No. 22-12045 (MBK)
	)	
Debtor.	)	Hearing: October 26, 2022
	)	10:00 a.m.

**OBJECTION OF THE STATE OF NEW JERSEY, DIVISION OF  
TAXATION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN**

The State of New Jersey, Division of Taxation ("Taxation"), objects to confirmation of Lev Bakshiyev's ("Debtor") proposed Chapter 13 plan as follows:

1. Taxation requests that the Court: (1) deny confirmation of Debtor's plan; and (2) require Debtor to amend the plan to provide for full payment of Taxation's secured claim pursuant to 11 U.S.C. § 1325.

2. Taxation's requested relief is required because Debtor's plan does not provide for full payment of Taxation's secured claim and provide for Taxation to retain its liens.

3. On October 13, 2022, Taxation filed the following amended proof of claim against Debtor (Claim No. 9-2), which includes:

- a. Secured debt in the amount of \$8,440.30, as a responsible person for deficient payment of employer withholding taxes by OnSite Imaging, LLC, for the third quarter of 2015, all quarters of 2018, and the first quarter of 2019; and
- b. General unsecured debt in the amount of \$1130.06 for costs incurred by Taxation in connection with the assessment and collection of the Debtor's aforementioned tax obligations.

4. On March 15, 2022, Debtor filed a petition for relief under Chapter 13 of the Bankruptcy Code. See Doc. No. 1.

5. On September 9, 2022, Debtor filed a Modified Chapter 13 Plan ("Modified Plan"). Debtor's Modified Plan fails to provide for treatment of any of Taxation's claims. Therefore, Taxation objects to confirmation of the Modified Plan.

6. Under 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless an objection is filed by the debtor or another party in interest. Indeed, a properly filed proof of claim is prima facie evidence of the validity and the

amount of the claim. In re Lampe, 665 F. 3d 506, 514 (3d Cir. 2011); Fed. R. Bankr. P. 3001(f). Here, no objections have been filed by any party to Taxation's proof of claim.

7. Debtor's Modified Plan fails to address Taxation's secured claim and does not propose that Taxation retain its lien until the claim is paid. Thus, Debtor has failed to comply with any of the § 1325(a)(5) requirements concerning the allowed treatment of Taxation's secured claim in the plan and, therefore, this Court should deny confirmation of Debtor's Modified Plan. In re Laguna, 944 F.2d 542, 544 n.7 (9th Cir. 1991), cert. denied, 503 U.S. 966 (1992) (Chapter 13 plan will be confirmed by the Court only if it complies with one of the three conditions set forth under 11 U.S.C. § 1325(a)(5)); In re Scotto-DiClemente, 459 B.R. 558, 564 (Bankr. D.N.J. 2011) (under § 1325(a)(5), confirmation will not be granted unless one of three requirements are satisfied as to secured claims: (a) the secured creditor holder accepts the plan; (2) debtor surrenders the property securing the claim to the claim creditor; or (3) the secured creditor retains its liens until the underlying debt is paid in full or discharged).

For the foregoing reasons, the State of New Jersey, Division of Taxation respectfully requests the Court deny confirmation of Debtor's Modified Plan, require Debtor to amend the plan to provide for full payment of its secured claim pursuant to 11 U.S.C. § 1325, and grant such other relief as the Court deems fair and equitable.

Respectfully submitted,

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Dated: October 19, 2022